

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 5, 2002

IN RE:

APPROVAL OF THE AMENDMENT TO
THE INTERCONNECTION AGREEMENT
NEGOTIATED BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
MEMPHIS NETWORKX LLC PURSUANT TO
THE TELECOMMUNICATIONS ACT OF
1996

DOCKET NO. 02-00589

ORDER APPROVING
AMENDMENT TO THE INTERCONNECTION AGREEMENT

This matter came before Chairman Sara Kyle, Director Pat Miller, and Director Ron Jones, of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 23, 2002 to consider, pursuant to 47 U.S.C. § 252, the *Petition for Approval of the Amendment to the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and Memphis Networkx LLC Pursuant to the Telecommunications Act of 1996* (the "Amendment").

The original Interconnection Agreement was filed under Docket Number 01-00806 together with a petition requesting its approval on September 17, 2001.¹ The original Interconnection Agreement and the petition requesting its approval were considered at the

¹ On October 9, 2001 BellSouth also filed a second petition requesting approval of another amendment which changed the company's name from Memphis Networkx to Memphis Networkx, LLC, replaced Attachment 4, added rates to Attachment 4, and replaced the rates in Attachment 2. See *Petition for Approval of the Amendment to the Interconnection Agreement Negotiated between BellSouth Telecommunications, Inc. and Memphis Networkx, LLC Pursuant to the Telecommunications Act of 1996*, p. 1 (Oct. 9, 2001).

regularly scheduled Authority Conference held on December 4, 2001 and again at an Authority Conference held on December 5, 2001. Thereafter, a majority of the Directors voted to allow the agreement to go into effect on December 17, 2001 pursuant to Section 252(e)(4) of the Act.² The parties filed an Amendment to the Interconnection Agreement on May 21, 2002, which is the subject of this docket.

Based upon the Petition, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Amendment and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The Petition and the Amendment for which it seeks approval are in the public interest as they provide consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The Petition and the Amendment for which it seeks approval are not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).³ Thus, although the Authority finds that neither ground for rejection

² See *In Re: Approval of the Interconnection Agreement and Amendment Thereto Negotiated by BellSouth Telecommunications, Inc. and Memphis Network Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996*, Docket No. 01-00806, Order, 3 (March 28, 2002). See also 47 U.S.C. § 252(e)(4) (Supp. 2000) which provides that this type of agreement is deemed approved ninety (90) days after submission for approval by a state commission where the commission does not approve or reject the agreement.

³ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

of a negotiated agreement exists, this finding should not be construed to mean that the Petition and the Amendment for which it seeks approval are consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

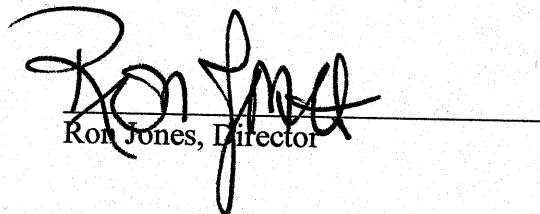
- 5) No person or entity has sought to intervene in this docket.
- 6) The Petition and the Amendment for which it seeks approval are reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Amendment to the Interconnection Agreement negotiated between BellSouth Telecommunications, Inc. and Memphis Networkx, LLC is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


Pat Miller, Director


Ron Jones, Director